



# The Attorney General of Texas

May 2, 1978

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Attorney General

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An Equal Opportunity  
Affirmative Action Employer

Honorable Stanley E. Wilkes, Jr.  
District Legal Counsel  
Dallas County Community College  
District  
701 Elm Street, Room 400  
Dallas, Texas 75202

Open Records Decision No. 191

Re: Whether an employee's grievance filed with the Community College District is available under the Open Records Act to other employees whose names are mentioned in the grievance.

Dear Mr. Wilkes:

You have requested our decision as to whether an employee's grievance filed with the Dallas County Community College District is available under the Open Records Act, article 6252-17a, V.T.C.S., to two other employees whose names are mentioned in the grievance.

On November 28, 1977, a female employee of the Dallas County Community College District, in accordance with District procedure, filed a "writ of grievance," alleging, inter alia, sexual harassment, and naming several of her fellow employees as offenders. Pursuant to an internal administrative investigation of these allegations, you obtained from another female employee of the District two written statements bearing on the conduct of a number of the same employees who had been the subject of the grievance. Subsequently, this second complainant voluntarily underwent a polygraph examination. Two of the accused employees now seek to obtain a copy of the grievance, and one of them has requested copies of the second complainant's statements, together with the results of the polygraph examination.

Initially, we note that neither the grievance nor the statements appear to disclose the violation of any civil or criminal statute, and you state that no litigation based upon these alleged incidents is presently anticipated. Accordingly, there is no occasion here to consider the applicability of the informer's privilege to the information in question. See Open Records Decision No. 172 (1977).

Section 3(a)(2) of the Open Records Act excepts from required public disclosure

[i]nformation in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; provided, however, that all information in the personnel files of an individual employee within a governmental body is to be made available to that individual employee or his designated representative as is public information under this Act;

In our opinion, both the grievance and the statements contain a variety of allegations which would preclude their public disclosure. See Open Records Decisions Nos. 103, 71 (1975). But the proviso to section 3(a)(2) has been


read broadly to include all information relevant to the individual's employment relationship.

Open Records Decision No. 31 (1974). In Open Records Decision No. 115 (1975), we held that, under the proviso, an individual might obtain copies of his own testimony and statement relating to an investigation. We found, however, that the requestor was not entitled to the testimony of other witnesses, because such testimony contained "no information which could in any way be considered derogatory to the requestor" and because it furnished "no information about the requestor which is not discernible from his own statement and oral testimony."

In the present instance, much of the information relating to the requesting employees may reasonably be characterized as "derogatory." Furthermore, each of the requested documents furnishes information about the requestors which is not duplicated elsewhere. We believe, therefore, that each requesting employee may obtain copies of those portions of the grievance and statements which relate to him in any manner. All such information is, in our view, relevant to his employment relationship with the District. We have marked those portions of each document which should be disclosed to each requestor.

As to the results of the polygraph examination administered to the second complainant, we believe that certain portions of such report are relevant to the employment relationship of the requesting employee, since they furnish an expert's opinion about the truth of allegations made against her. We have accordingly marked those portions of the report which should be made available to the requestor.

Very truly yours,



JOHN L. HILL

Attorney General of Texas

APPROVED:

A handwritten signature in cursive script, appearing to read "David M. Kendall", written over a horizontal line.

DAVID M. KENDALL, First Assistant

A handwritten signature in cursive script, appearing to read "C. Robert Heath", written over a horizontal line.

C. ROBERT HEATH, Chairman  
Opinion Committee

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